

**Notice of Allowability**

Application No.	Applicant(s)	
09/606,763	CHEN ET AL.	
Examiner	Art Unit	
Chih-Min Kam	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 8/3/04.
2.  The allowed claim(s) is/are 17, 19, 38-42 and 91.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some\*    c)  None    of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.  
(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
    1)  hereto or 2)  to Paper No./Mail Date 11/20/01.  
(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
    Paper No./Mail Date \_\_\_\_\_.
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
    Paper No./Mail Date \_\_\_\_\_.
4.  Examiner's Comment Regarding Requirement for Deposit  
    of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
    Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

**The following is an Examiner's Statement of Reasons for Allowance:**

The following references appear to be the closest art to the claimed invention. Neidhart *et al.* (British J. Rheumatology 36, 1151-1160 (1997)) teach native human cartilage oligomeric matrix protein (hCOMP) was purified from articular cartilage by extraction with EDTA-containing buffer, affinity chromatography on wheat germ agglutinin coupled to CNBr-activated Sepharose, gel filtration on Sepharose CL4B, and affinity chromatography on heparin coupled to Sepharose CL6B, however, the reference does not teach hCOMP is purified in the presence of calcium, where hCOMP is obtained in a calcium replete form which is critical for COMP's maximal GAG binding capacity and maximal cell adhesive activity; and Heinegard *et al.* (WO 98/46253) teach a pharmaceutical composition comprising a purified bovine, rat or human COMP, where COMP is purified in the presence of EDTA, however, the references do not teach a composition comprising a purified COMP and at least one biological matrix selected from the group consisting of: treated cartilage and bone matrices, collagens, hyaluronan, fibrin gels, carbon fibers, porous polylactic acid, type I collagen gel, and type II collagen gel, and further comprising chondrocytes or mesenchymal stem cells, or a differentiation agent, or chondroitin sulfate protoglycans. Therefore, the claims are allowable over the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

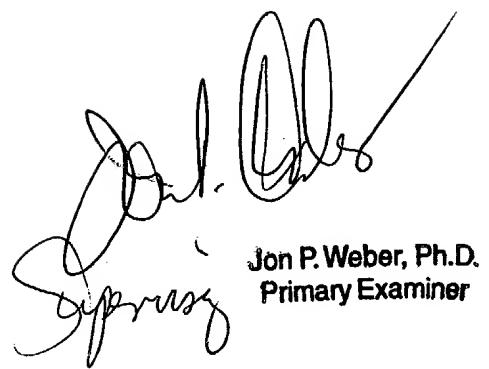
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached at 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 1653

Chih-Min Kam, Ph. D. *CMK*  
Patent Examiner

CMK  
August 30, 2004



Handwritten signatures of Chih-Min Kam and Jon P. Weber, Ph.D. The signature of Chih-Min Kam is in cursive, with 'CMK' written below it. The signature of Jon P. Weber, Ph.D. is in cursive, with 'Primary Examiner' written below it.

*Chih-Min Kam*  
*CMK*

*Jon P. Weber, Ph.D.*  
*Primary Examiner*